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## **I. BACKGROUND**

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9606 and 9607, as amended ("CERCLA"), seeking reimbursement of response costs incurred or to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Dutchtown Oil Treatment Superfund Site in Ascension Parish, Louisiana ("the Site").

B. The Site was listed on the National Priorities List in 1987. 52 Fed. Reg. 27620, 27638 (July 22, 1987). It consists of approximately 5.0 acres at the juncture of Louisiana State Highway 74 and Interstate 10.

C. The Site was used to recycle waste oils from 1965 until approximately 1982. It contained a 0.07 acre waste pit, a 0.8 acre waste pit, seven above ground vertical tanks, two small horizontal tanks, and a railroad tank car. It also included a small building and above ground piping with asbestos insulation.

D. Hazardous substances as defined under CERCLA, including benzene, toluene, xylene, styrene, ethylbenzene, tetrachloroethane, lead, arsenic, antimony, and chromiums, were detected in the pits, tanks, and monitoring wells at the Site.

E. Accordingly, EPA issued a March 25, 1988 Action Memorandum for an Expedited Response Action ("ERA") at this Site.

F. A December 18, 1989 CERCLA action, United States of America v. Avondale Industries, et al., Civil Action No. 3:89-cv-00957 (M.D. La.), was filed against twenty potentially

responsible parties (“PRPs”), including most of the Settling Defendants who are parties to this instant matter. A consent decree entered on May 23, 1990 resolved these CERCLA claims, whereby the settling parties agreed to perform EPA’s ERA, reimburse the United States’ oversight costs related to the ERA, and pay \$409,464.19 for costs incurred prior to January 31, 1989. The United States expressly reserved its rights regarding removal or remedial action beyond the ERA at the Site.

G. The settling parties conducted the ERA from January through August 1991. It consisted of removal and off-site disposal of the primary sources of contamination from the holding pond, waste pits, and above-ground storage tanks at the Site.

H. On August 7, 1989, eighteen respondents, including most of the Settling Defendants who are parties to this instant matter, entered into an EPA Administrative Order on Consent (“AOC”), Docket Number CERCLA-VI-12-89. The AOC required respondents to perform a Remedial Investigation and Feasibility Study (“RI/FS”) for the Site and reimburse EPA’s oversight costs related to the RI/FS. Soil and ground water investigations during the RI identified risk due to residual contamination within the unusable shallow water bearing zone. Remediation alternatives for residual contamination, including natural attenuation, ground water monitoring, and institutional controls to address residual contamination, were evaluated in the FS, which was completed in May 1993.

I. EPA’s June 20, 1994 Record of Decision (“ROD”), set forth a remedy for the Site, requiring continued groundwater monitoring to ascertain that residual contaminants were naturally attenuating within the unusable shallow water bearing zone.

J. EPA's December 30, 1996 Unilateral Administrative Order ("UAO"), Docket Number CERCLA 6-06-97 (amended on January 15, 1997), was issued to fifteen respondents, including most of the Settling Defendants who are parties to this instant matter. The UAO required respondents to implement the remedy selected in the ROD, including installation and sampling of monitoring wells, installation of restriction signs, mowing, and inspection of caps and monitoring wells.

K. With the remedial action completed, the Site was deleted from the National Priorities List on November 16, 1999. 64 Fed. Reg. 50457 (September 17, 1999). It has been in an operation and maintenance phase since.

L. The defendants entering into this Consent Decree ("Settling Defendants") do not admit any liability to Plaintiff arising out of the transactions or occurrences alleged in the complaint.

M. The United States and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED, AND DECREED:

## **II. JURISDICTION**

I. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607 and 9613(b), and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying

complaint, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

### **III. PARTIES BOUND**

2. This Consent Decree is binding upon the United States, and upon Settling Defendants and their heirs, successors, and assigns. Any change in ownership or corporate or other legal status, including but not limited to, any transfer of assets or real or personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

### **IV. DEFINITIONS**

3. Unless otherwise expressly provided herein, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.*
- b. "Consent Decree" shall mean this Consent Decree and any appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, the Consent Decree shall control.
- c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "DOJ" shall mean the United States Department of Justice and any successor departments, agencies or instrumentalities of the United States.

e. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies or instrumentalities of the United States.

f. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

g. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

h. "Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

i. "Parties" shall mean the United States and Settling Defendants.

j. "Plaintiff" shall mean the United States of America.

k. "ROD" shall mean EPA's June 20, 1994 Record of Decision pertaining to this Site.

l. "Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

m. "Settling Defendants" shall mean Ascension Holding Company, LLC; Browning-Ferris Industries Chemical Services, Inc.; Cenac Towing Co., LLC; Cos-Mar Company; Kinder Morgan Liquids Terminals LLC (f/k/a GATX Terminals Corporation);

Northrop Grumman Ship Systems, Inc.; Port Allen Marine Service, Inc.; Trinity Industries, Inc.; and Vopak Terminal Galena Park Inc. (f/k/a Paktank Corporation-Galena Park Terminal).

n. "Site" shall mean the Dutchtown Oil Treatment Superfund Facility or the Dutchtown Oil Treatment Superfund Site, consisting of approximately five acres, located at the intersection of Interstate 10 and Louisiana Highway 74, in Ascension Parish, Louisiana.

#### **V. PAYMENT OF RESPONSE COSTS**

4. Payment of Response Costs to EPA. Within 30 days of entry of this Consent Decree, Settling Defendants shall pay to EPA \$ 935,000.00 (nine hundred and thirty-five thousand dollars) for response costs pertaining to the Site. Payment shall be made by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice account in accordance with EFT instructions provided to Settling Defendants by the Financial Litigation Unit of the U.S.

Attorney's Office in the District of Louisiana, following entry of the Consent Decree.

5. Interest on payment of the response costs of \$935,000.00 (nine hundred and thirty-five thousand dollars) shall begin to accrue from the date of lodging and run through the date of payment.

6. At the time of payment, Settling Defendants shall also send notice that payment has been made to EPA and DOJ in accordance with Section XIII (Notices and Submissions). Such notice shall reference the EPA Region and Site/Spill Identification Number 92, DOJ Case Number 90-11-2-428/1, and the civil action number.

7. The total amount to be paid by Settling Defendants pursuant to Paragraph 4, \$935,000.00 (nine hundred and thirty-five thousand dollars) shall be deposited by EPA into the EPA Hazardous Substance Superfund. Of this amount, EPA shall deposit \$71,000 (seventy-one

thousand dollars) for future costs into the Dutchtown Oil Treatment Superfund Site Special Account within the EPA Hazardous Substance Superfund.

**VI. FAILURE TO COMPLY WITH CONSENT DECREE**

8. Interest on Late Payments. If Settling Defendants fail to make any payment under Paragraph 4 (Payment of Response Costs) by the required due date, Interest shall continue to accrue on the unpaid balance through the date of payment.

9. Stipulated Penalty.

a. If the amount due under Paragraph 4 is not paid by the required date, Settling Defendants shall be in violation of this Consent Decree and shall pay, as a stipulated penalty, in addition to the Interest required by Paragraph 7, \$1000.00 (one thousand dollars) per violation per day that such payment is late.

b. Stipulated penalties are due and payable within 30 days of the date of the demand for payment of such penalties by EPA. All payments under this Paragraph shall be identified as "stipulated penalties" and shall be made by EFT payable to "EPA Hazardous Substance Superfund." The payment shall reference the name and address of the Parties making payment, the Site name, the EPA Region and Site Spill ID Number 92, DOJ Case Number 90-11-2-428/1, and the civil action number of this case. Settling Defendants shall send such payment to the U.S. Department of Justice in accordance with EFT instructions provided by the Financial Litigation Unit of the U.S. Attorney's Office in the District of Louisiana, following entry of the Consent Decree.

c. At the time of each payment, Settling Defendants shall also send notice that payment has been made to EPA and DOJ in accordance with Section XIII (Notices and

Submissions). Such notice also shall reference the EPA Region and Site/Spill ID Number 92, DOJ Case Number 90-11-2-428/1, and the civil action number.

d. Penalties shall accrue as provided in this Paragraph regardless of whether EPA has notified Settling Defendants of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due, and shall continue to accrue through the date of payment.

10. If the United States brings an action to enforce this Consent Decree, Settling Defendants shall reimburse the United States for all costs of such action, including but not limited to costs of attorney time.

11. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiff by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

12. The obligations of Settling Defendants to pay amounts owed the United States under this Consent Decree are joint and several. In the event of the failure of any one or more Settling Defendants to make the payments required under this Consent Decree, the remaining Settling Defendants shall be responsible for such payments.

13. Notwithstanding any other provision of this Section, the United States may, in its unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section V or from performance of any other requirements of this Consent Decree.

## **VII. COVENANT NOT TO SUE BY PLAINTIFF**

14. Covenant Not to Sue by United States. Except as specifically provided in Section VIII (Reopeners and Reservation of Rights by United States), the United States covenants not to sue or to take administrative action against Settling Defendants pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), related to the Site. This covenant not to sue shall take effect upon receipt by EPA of payment required by Section V, Paragraph 4 (Payment of Response Costs) and any amount due under Section VI (Failure to Comply with Consent Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling Defendants of their obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendants and does not extend to any other person.

## **VIII. REOPENERS & RESERVATION OF RIGHTS BY UNITED STATES**

15. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order seeking to compel Settling Defendants to perform further response actions relating to the Site, or to reimburse the United States for additional costs of response if, subsequent to the Effective Date of this Consent Decree:

- a. conditions at the Site, previously unknown to EPA, are discovered; or
- b. information, previously unknown to EPA, is received, in whole or in part, and EPA determines that these previously unknown conditions or this information together with other relevant information indicate that the Remedial Action is not protective of human health or the environment.

16. For purposes of Paragraph 15, information and conditions known to EPA shall include only that information and those conditions: (1) set forth in the administrative record supporting EPA's ROD; (2) received by EPA pursuant to Remedial Design and Remedial Action requirements prior to issuance of the August 24, 1994 Certification of Completion; and (3) set forth in the post-ROD administrative record as of September 12, 2007.

17. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenant Not to Sue by United States in Paragraph 14. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

- a. liability for failure of Settling Defendants to meet a requirement of this Consent Decree;
- b. criminal liability;
- c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- d. liability, based upon Settling Defendants' ownership or operation of the Site, or upon Settling Defendants' transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal, of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Decree by Settling Defendants; and
- e. liability arising from the past, present, or future disposal, release or threat of release of a hazardous substance, pollutant, or contaminant outside of the Site.

**IX. COVENANT NOT TO SUE BY SETTLING DEFENDANTS**

18. Settling Defendants covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C.

§§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the response actions at the Site for which the Past Response Costs were incurred, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to Past Response Costs or Future Response Costs.

19. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

**X. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

20. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. The Parties expressly reserve any and all rights, including, but not limited to, any right to contribution, defenses, claims, demands, and causes of action that they may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

21. The Parties agree, and by entering this Consent Decree this Court finds, that Settling Defendants are entitled, as of the date of entry of this Consent Decree, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be taken and all response costs incurred or to be incurred, at or in connection with the Site, by the United States or any other person. The "matters addressed" in this Consent Decree do not include those response costs or response actions subject to reopeners and/or as to which the United States has reserved its rights under this Consent Decree as set forth in Section VIII (Reopeners & Reservation of Rights).

22. Each Settling Defendant agrees that, with respect to any suit or claim for contribution brought by it for matters related to this Consent Decree, it will notify EPA and DOJ in writing no later than 45 days prior to the initiation of such suit or claim. Each Settling Defendant also agrees that, with respect to any suit or claim for contribution brought against it for matters related to this Consent Decree, it will notify EPA and DOJ in writing within 30 days of service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

23. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other

defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenant Not to Sue by Plaintiff set forth in Section VII.

#### **XI. ACCESS TO INFORMATION**

24. Subject to Paragraph 25, Settling Defendants shall provide to EPA, upon request, copies of all records, reports, or information (hereinafter referred to as "records") within their possession or control or that of their contractors or agents relating to activities at the Site, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Site.

#### **25. Confidential Business Information and Privileged Documents.**

a. Settling Defendants may assert business confidentiality claims covering part or all of the records submitted to Plaintiff under this Consent Decree to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Records determined to be confidential by EPA will be accorded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies records when they are submitted to EPA, or if EPA has notified Settling Defendants that the records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such records without further notice to Settling Defendants.

b. Settling Defendants may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege in lieu of providing records, they shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (e.g., company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

c. No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Site.

## **XII. RETENTION OF RECORDS**

26. Until 5 years after the entry of this Consent Decree, each Settling Defendant shall preserve and retain all records now in its possession or control, or which come into its possession or control; that relate in any manner to response actions taken at the Site or the liability of any

person under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

27. After the conclusion of the 5-year document retention period in the preceding paragraph, Settling Defendants shall notify EPA and DOJ at least 90 days prior to the destruction of any such records, and, upon request by EPA or DOJ, Settling Defendants shall deliver any such records to EPA. Settling Defendants may assert that certain records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Settling Defendants assert such a privilege, they shall provide Plaintiff with the following: 1) the title of the record; 2) the date of the record; 3) the name, title, affiliation (*e.g.*, company or firm), and address of the author of the record; 4) the name and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the privilege asserted. If a claim of privilege applies only to a portion of a record, the record shall be provided to Plaintiff in redacted form to mask the privileged information only. Settling Defendants shall retain all records that they claim to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in the Settling Defendants' favor. However, no records created or generated pursuant to the requirements of this or any other settlement with the EPA pertaining to the Site shall be withheld on the grounds that they are privileged.

28. Each Settling Defendant hereby certifies individually that, to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any manifests, shipping, or other disposal records, reports, or information relating to transactions with the Site and relating to its potential liability regarding the Site since notification of potential liability by the United States or the filing of suit against it

regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6972.

### **XIII. NOTICES AND SUBMISSIONS**

29. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Defendants in writing. Written notice as specified herein shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to the United States, EPA, DOJ, and Settling Defendants, respectively.

#### As to the United States:

Notice shall be provided to DOJ and EPA as provided below.

#### As to DOJ:

Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Re: DJ # 90-11-2-428/1

#### As to EPA:

George Malone, III  
Assistant Regional Counsel (6RC-S)  
US EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Michael Hebert  
Remedial Project Manager, Superfund Division  
US EPA Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Team Leader, Superfund Enforcement Assessment Team  
US EPA Region 6 (6SF-TE)  
1445 Ross Avenue  
Dallas, Texas 75202-2733

As to Settling Defendants:

Robert E. Holden, Esq.  
Liskow & Lewis  
One Shell Square  
701 Poydras Street, Suite 5000  
New Orleans, Louisiana 70139-5099

**XIV. RETENTION OF JURISDICTION**

30. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

**XV. INTEGRATION**

31. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Decree.

**XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

32. This Consent Decree shall be lodged with the Court for a period of not less than 30 days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or

considerations which indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

33. If for any reason this Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

#### **XVIII. SIGNATORIES/SERVICE**

34. Each undersigned representative of a Settling Defendant to this Consent Decree and the Deputy Chief of the Environment and Natural Resources Division of the United States Department of Justice certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally such Party to this document.

35. Each Settling Defendant hereby agrees not to oppose entry of this Consent Decree by this Court or to challenge any provision of this Consent Decree, unless the United States has notified Settling Defendants in writing that it no longer supports entry of the Consent Decree.

36. Each Settling Defendant shall identify, on the attached signature page, the name and address of an agent who is authorized to accept service of process by mail on behalf of that Party with respect to all matters arising under or relating to this Consent Decree. Settling Defendants hereby agree to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to, service of a summons. The Parties agree that Settling Defendants need not file an answer to the complaint in this action unless or until the Court expressly declines to enter this Consent Decree. Should the Court decline to enter the Consent

Decree, Settling Defendants shall have 60 days from the date of the order denying entry of the Consent Decree to answer or otherwise respond to Plaintiff's complaint.

**XIX. FINAL JUDGMENT**

37. Upon approval and entry of this Consent Decree by the Court, this Consent Decree shall constitute the final judgment between and among the United States and the Settling Defendants. The Court finds that there is no just reason for delay and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200\_\_\_\_\_.

\_\_\_\_\_  
United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR THE UNITED STATES OF AMERICA:**

Date: 12/12/08

\_\_\_\_\_  
W. BENJAMIN FISHEROW  
Deputy Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice

Date: December 12, 2008

\_\_\_\_\_  
MICHAEL T. DONNELLAN  
ELIZABETH F. KROOP  
Trial Attorneys  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
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Fax: (202) 514-0097  
Email: ]

DAVID R. DUGAS  
United States Attorney  
Middle District of Louisiana

Date: 12/12/08

\_\_\_\_\_  
/s/ Helina S. Dayries

HELINA S. DAYRIES, LBN 27206  
Assistant United States Attorney  
777 Florida Street, Suite 208  
Baton Rouge, Louisiana 70801  
Telephone: (225) 389-0443  
Fax: (225) 389-0685  
E-mail:

THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:**

Date:

9/30/08

\_\_\_\_\_  
Samuel Coleman, P.E.  
Superfund Division Director, Region 6  
U.S. Environmental Protection Agency  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Date:

9-29-08

\_\_\_\_\_  
George Malone, III  
Assistant Regional Counsel (6RC-S)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR BROWNING-FERRIS INDUSTRIES CHEMICAL SERVICES, INC.:**

8/28/08

Date

---

Victoria Warren  
Allied Waste  
6711 West 1000 North  
McCordsville, IN 46055  
(317) 335-9550 (P)  
(317) 355-9899 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party:

9.3.08

Date

---

Jo Lynn White  
Corporate Secretary  
Allied Waste  
18500 North Allied Way  
Phoenix, AZ 85054  
(480) 627-2700 (P)  
(580) 627-2728 (F)

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site.

**FOR CENAC TOWING CO., LLC:**

9/10/08  
Date

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C. Berwick Duval, II, Esq.  
Duval, Funderburk, Sundbery,  
Lovell, Reeves & Watkins  
101 Wilson Avenue  
Post Office Box 3017  
Houma, LA 70361-3017  
(985) 876-6410 (P)  
(985) 851-1490 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party:

9/10/08  
Date

---

Arlen B. Cenac, Jr.  
President  
Cenac Towing Co., Inc.  
141 Bayou Dularge Road  
Post Office Box 2617  
Houma, LA 70361  
(985) 872-2413 (P)  
(985) 872-0696 (F)

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR COS-MAR COMPANY:**

*September 18, 2008*  
Date

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Phillip B. Carruthers  
Member, Board of Managers  
Cos-Mar Company  
1201 Louisiana Street, Suite 1800  
Houston, TX 77002  
Tel: (713) 483-5269  
Fax: (713) 483-5200

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR KINDER MORGAN LIQUIDS TERMINALS LLC (f/k/a GATX TERMINALS CORPORATION):**

9/10/08

Date

\_\_\_\_\_  
Nancy E. Van Burgel, Esq.  
Kinder Morgan Inc.  
370 Van Gordon Street  
Post Office Box 281304  
Lakewood, CO 80228-8304  
(303) 914-4634 (P)  
(303) 763-3115 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party:

9/9/08

Date

\_\_\_\_\_  
Jeffrey Armstrong  
President  
Kinder Morgan Liquids Terminals LLC  
(f/k/a GATX Terminals Corporation)  
One Allen Center  
500 Dallas Street, Suite 1000  
Houston, TX 77002

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc., et al, relating to the Dutchtown Superfund Site:

**FOR NORTHROP GRUMMAN SHIP SYSTEMS, INC.:**

28 AUG 2008  
Date

\_\_\_\_\_  
Chris Kastner  
Vice President – Business Management and  
Chief Financial Officer  
Northrop Grumman Ship Systems, Inc.  
Post Office Box 149  
Pascagoula, Mississippi 39568-0149  
(228) 935-5112 (P)  
(228) 933-6500 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party:

28 AUGUST 2008  
Date

\_\_\_\_\_  
Robert J. Ariatti, Jr.  
Senior Counsel/Assistant Secretary  
Northrop Grumman Ship Systems, Inc.  
Post Office Box 149, Mail Station 1011-09  
Pascagoula, Mississippi 39568-0149  
(228) 935-3912 (P)  
(228) 935-4864 (F)

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR PORT ALLEN MARINE SERVICE, INC.:**

August 28, 2008

Date

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William Morelli, Esq.  
Port Allen Marine Service, Inc.  
c/o Ingram Industries Inc.  
Post Office Box 23049  
Nashville, TN 37202-0349  
(615) 298-8244 (P)  
(615) 298-7608 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party:

August 28, 2008

Date

---

William Morelli, Esq.  
Port Allen Marine Service, Inc.  
c/o Ingram Industries Inc.  
Post Office Box 23049  
Nashville, TN 37202-0349  
(615) 298-8244 (P)  
(615) 298-7608 (F)

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR TRINITY INDUSTRIES, INC.:**

9/19/08

Date

\_\_\_\_\_  
Frederick W. Addison III, Esq.  
Munsch Hardt Kopf & Harr, P.C.  
3800 Lincoln Plaza  
500 N. Akard Street  
Dallas, TX 75201-6659  
(214) 855-7570 (P)  
(214) 978-5336 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party: 

9-19-08

Date

\_\_\_\_\_  
S. Theis Rice  
Trinity Industries, Inc.  
2525 Stemmons Freeway  
Dallas, TX 75207

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR VOPAK TERMINAL GALENA PARK INC. (f/k/a PAKTANK CORPORATION-  
GALENA PARK TERMINAL):**

8-29-08

Date

✓  
\_\_\_\_\_  
Lou Ann Flanz, General Counsel  
Vopak Terminal Galena Park Inc.  
2000 West Loop South, Suite 2200  
Houston, Texas 77027-3597

Agent Authorized to Accept Service on Behalf of Above-signed Party:

8-29-08

Date

\_\_\_\_\_  
Jim O. DuBose, Vice President  
Vopak Terminal Galena Park Inc.  
2000 West Loop South, Suite 2200  
Houston, TX 77027-3597  
(713) 561-7243 (P)  
(713) 561-7323 (F)

THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of United States v. Browning-Ferris Industries Chemical Services, Inc. et al., relating to the Dutchtown Superfund Site:

**FOR ASCENSION HOLDING COMPANY, LLC:**

9/30/08  
Date

Northrop Grumman Ship Systems, Member  
Ascension Holding Company, LLC  
By: Donald Perkins  
Northrop Grumman Ship Systems  
Post Office Box 149  
Pascagoula, MS 39568-0149  
(228) 935-7969 (P)  
(228) 933-7417 (F)

Agent Authorized to Accept Service on Behalf of Above-signed Party:

9/26/2008  
Date

Robert E. Holden, Esq.  
Liskow & Lewis  
701 Poydras Street, Suite 5000  
New Orleans, LA 70139  
(504) 556-4130 (P)  
(504) 556-4108 (F)